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10/611,449	07/01/2003	Tong Zhang	100202720-1	1631

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EXAMINER	
SWERDLOW, DANIEL	
ART UNIT	**PAPER NUMBER**
2615	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/611,449	ZHANG ET AL.	
	Examiner	Art Unit	
	Daniel Swerdlow	2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 February 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17 and 39-59* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,5-12,16,17,39-51 and 55-59* is/are rejected.

7)☒ Claim(s) *1,4,13-15 and 52-54* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. **Claim 39 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.** The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 39 recites the limitation "following links between multiple ones of the audio summaries and one of the audio pieces". The closest recitation in the original specification is "In some implementations, one or more audio pieces may be linked to multiple representative audio summaries that are incorporated into audio sequence 145" (page 11, lines 15-17). However, the recitation in the specification only requires links between a plurality (one or more) of pieces and a plurality (multiple) of summaries. This is shown by Fig. 7 which is referenced in the specification with respect to the above recitation and depicts a plurality (1, 2,..., M) of pieces and a plurality (1, 2,..., M) of summaries with a one-to-one correspondence between the pieces and the summaries.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. **Claims 1, 2, 5 through 12, 16, 17, 41, 42, 45, 46, 50, 51, 55 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oh (US Patent 5,408,449) in view of Takenaka et al. (US Patent 6,807,450).**

5. Regarding Claim 1, Oh discloses a digital audio player with an intro-play function comprising: sequentially reproducing (i.e., rendering) foreparts (i.e., audio summaries) that quickly reveal the contents of (i.e., comprise digital content summarizing) music items (i.e., a respective associated audio piece) (Fig. 6, steps S3-S8; column 6, lines 1-24). Therefore, Oh anticipates all elements of Claim 1 except that Oh is silent as to any transitional audio. Takenaka discloses a digital audio reproduction method (Fig. 5E; column 12, lines 11-29) that provides transition audio segments between the information pieces (i.e., music items). Takenaka further discloses that such an arrangement provides a natural linkage between songs, enhancing listener enjoyment (column 12, lines 42-45). It would have been obvious to one skilled in the art at the time of the invention to apply the transition segments taught by Takenaka to the intro-play function taught by Oh for the purpose of realizing the aforesaid advantages.

6. Regarding Claim 2, Takenaka further discloses identical transitions (Fig. 5E; Fig 6).

7. Regarding Claim 5, Takenaka further discloses consecutive reproduction (i.e., rendering of audio data and transitions (Fig. 5E; column 12, lines 11-29).

8. Regarding Claim 6, Oh further discloses the foreparts (i.e., audio summaries) that quickly reveal the contents of (i.e., comprise digital content summarizing) music items (i.e., a respective

associated audio piece) are the first 10 seconds (i.e., a representative segment) (Fig. 6, steps S3-S8; column 6, lines 1-24).

9. Regarding Claims 7 and 8, Oh further discloses selectively storing item numbers of music items (i.e., classifying audio pieces) in response to user input during the reproduction (i.e., rendering of the forepart (i.e., summary) (Fig. 6, steps S4, S5; column 5, lines 61-65) and reproducing those music items (i.e., building a playlist) (Fig. 6, step S10; column 6, lines 21-24).

10. Regarding Claim 9, Oh further discloses associating item number of a music item (i.e., audio piece) with the forepart (i.e., summary). As such the forepart (i.e., summary) is linked to the music item (i.e., audio piece).

11. Regarding Claim 10, Oh further discloses reproducing those music items associated with selected summaries (Fig. 6, step S10; column 6, lines 21-24).

12. Regarding Claims 11 and 12, Oh further discloses reproducing (i.e., rendering) entire music items based on selection of intro clips that reproduce the beginnings of the items (Fig. 6, steps S4, S5; column 5, lines 61-65). As such, Oh discloses rendering audio pieces beginning at a location (i.e., the beginning) linked to an audio summary (that also represents the beginning of the piece).

13. Regarding Claim 16, Takenaka further discloses reproduction at a constant level (i.e., normalizing to a common loudness level) (Fig 5E; column 12, lines 30-36).

14. Claim 17 is essentially similar to Claim 1 and is rejected on the same grounds.

15. Regarding Claims 41 and 55, Takenaka further discloses rendering without gaps (Fig 5E; column 12, lines 40-44).

16. Regarding Claim 42, Oh further discloses incrementing a music number (Fig. 6, step S7) and reproducing the music corresponding to the incremented user number (i.e., another audio summary) (step S3) in response to a memory key input (step S4) where the music selections are numbered selections in a table of contents and, as such, constitute a hierarchical cluster (column , line 54 through column 6, line 17).

17. Regarding Claims 45, 46 and 58, Oh further discloses a music number that corresponds to the pointer claimed and defines the beginning of the associated selection and subsequently rendering the selected piece from the beginning (Fig. 6, steps S4, S5; column 5, lines 61-65).

18. Claims 50 and 51 are essentially similar to Claims 7 and 8 and are rejected on the same grounds.

19. **Claims 47 through 49 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oh in view of Takenaka and further in view of Setogawa et al. (US Patent 6,424,793).**

20. Regarding Claims 47 and 59, as shown above apropos of Claims 46 and 58, respectively, the combination of Oh and Takenaka makes obvious all elements except returning to summary rendering upon termination of audio piece rendering. Setogawa discloses a replay apparatus that returns to a selection function upon termination of a tune replay (Fig. 18, steps S103-S104; column 19, lines 1-19). Setogawa further discloses that such an arrangement provides improved ease of operation (column 20, lines 48-56). It would have been obvious to one skilled in the art at the time of the invention to apply return to selection function as taught by Setogawa to the

combination made obvious by Oh and Takenaka for the purpose of realizing the aforesaid advantage.

21. Regarding Claim 48, Setogawa further discloses returns to a selection function upon user key press during a tune replay (Fig. 18, steps S102; column 19, lines 1-19).

22. Regarding Claim 49, Setogawa further discloses returns to a selection function upon coming to end of a tune replay (Fig. 18, steps S103; column 19, lines 1-19).

23. **Claims 1 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oh in view of Logan et al. (US 2002/0120752 A1).**

24. Regarding Claim 1, Oh discloses a digital audio player with an intro-play function comprising: sequentially reproducing (i.e., rendering) foreparts (i.e., audio summaries) that quickly reveal the contents of (i.e., comprise digital content summarizing) music items (i.e., a respective associated audio piece) (Fig. 6, steps S3-S8; column 6, lines 1-24). Therefore, Oh anticipates all elements of Claim 1 except that Oh is silent as to any transitional audio. Logan discloses audio transitions using silence, tone, static or stored audio clips (paras. 0028-0029). Logan further discloses that such an arrangement prevents user annoyance and confusion (para. 0006). It would have been obvious to one skilled in the art at the time of the invention to apply the tone transitions taught by Logan to the intro-play function taught by Oh for the purpose of realizing the aforesaid advantages.

25. Regarding Claim 40, Logan discloses audio transitions using tone (para. 0028).

26. **Claims 1, 17, 43, 44, 56 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Csicsatka et al. (US 2006/0235550 A1) in view of Takenaka.**

27. US 2006/0235550 A1 to Csicsatka et al. is prior art under 35 USC 102(e) with respect to this application due to its continuity through international application WO 2004/097832 A2 which published in English and designates the United States and has an effective filing date of 24 April 2003 due to its priority to US Provisional Application 60/465,156 for any matter disclosed in that provisional application. Copies of the published international application and the US provisional application are provided with this Office action. Text references below are made with respect to the provisional application.

28. Regarding Claim 1, Csicsatka discloses a method for creating playlists in a mass storage audio device comprising: playing audio clips from a selected album in album order (i.e., sequentially rendering audio summaries comprising digital content summarizing a portion of an associated piece) (page 1, example 1). Therefore, Csicsatka anticipates all elements of Claim 1 except that Csicsatka is silent as to any transitional audio. Takenaka discloses a digital audio reproduction method (Fig. 5E; column 12, lines 11-29) that provides transition audio segments between the information pieces (i.e., music items). Takenaka further discloses that such an arrangement provides a natural linkage between songs, enhancing listener enjoyment (column 12, lines 42-45). It would have been obvious to one skilled in the art at the time of the invention to apply the transition segments taught by Takenaka to the playlist creation function taught by Csicsatka for the purpose of realizing the aforesaid advantages.

29. Claim 17 is essentially similar to Claim 1 and is rejected on the same grounds.

30. Regarding Claim 43, Csicsatka further discloses identifying artists, albums, genres, years, and other collections of music by playing audio prompts and short clips (page 1, 6th paragraph) and placing selected tracks in one of a plurality of playlists (page 2, 1st paragraph), either of which constitute receiving user specified categories during summary rendering.

31. Regarding Claim 44, Csicsatka further discloses placing selected tracks in one of a plurality of playlists (i.e., building playlists based on user specified categories) (page 2, 1st paragraph).

32. Claims 56 and 57 are essentially similar to Claims 43 and 44 and are rejected on the same grounds.

Allowable Subject Matter

33. Claims 3, 4, 13 through 15 and 52 through 54 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

34. Claims 3, 4 and 13 through 15 are allowable matter for the reasons stated in the prior Office action.

35. Claims 52 through 54 contain limitations similar to those of Claims 13 through 15 and are allowable matter for the same reasons.

Response to Arguments

36. Applicant's arguments filed 7 February 2007 have been fully considered but they are not persuasive.

37. On pages 8 and 9 of the response filed on 7 February 2007, applicant alleges with respect to Claim 1 that the fade-out and fade-in portions taught in Takenaka that correspond to the transition audio segments claimed cannot be separate elements from the songs that correspond to the audio summaries claimed. Examiner respectfully disagrees. Claim 1 only requires that the "audio summary comprises digital content summarizing at least a portion of a respective associated audio piece" and places no limits whatsoever on the structure of the transition audio segments themselves. As such, the information piece in Takenaka with the fade-out and fade-in portions removed meets the claimed audio summary since it comprises content summarizing at least a portion of the information piece while the fade-out and fade-in portions, by virtue of being rendered sequentially between the information pieces with the fade-out and fade-in portions removed meets the claimed transition audio segments.

38. On page 10 of the response applicant alleges that Takenaka fails to disclose "identical transition audio segments" as claimed in Claim 2. Examiner respectfully disagrees. As shown in Fig. 5E in Takenaka, the fade-out and fade-in portions that correspond to the transition audio segments use identical fade-out and fade-in characteristics. As such, the transitions are identical in the plain meaning of the term, since the same transitional method is used each time.

39. On page 11 of the response applicant alleges that Oh fails to disclose "classifying audio pieces into categories" as claimed in Claim 7. Examiner respectfully disagrees. Clearly Oh discloses at least two categories: songs that will be subsequently played and songs that will not.

40. On page 12 of the response applicant alleges that Oh fails to disclose the audio summaries being linked to associated audio pieces as claimed in Claim 9. Examiner respectfully

disagrees. Since each of the foreparts disclosed in Oh represents a respective music item, this representation constitutes a link in the plain meaning of the term.

41. Spanning pages 12 and 13 of the response applicant alleges that Oh fails to disclose rendering the associated audio piece in response to user input during the rendering of an audio summary as claimed in Claim 10. Examiner respectfully disagrees. Oh discloses that a user input entered during rendering of the forepart subsequently results in the associated music item being rendered in a playback mode. There is nothing in the claim that requires the rendering of the audio piece to occur immediately upon receipt of the user input.

42. On page 13 of the response applicant alleges that Oh fails to disclose the audio summaries being linked to a location in the associated audio pieces as claimed in Claim 11. Examiner respectfully disagrees. Since each of the foreparts disclosed in Oh represents a respective music item, this representation constitutes a link in the plain meaning of the term. The use of the forepart to designate an item for rendering at its beginning creates a link between the forepart and the beginning of the item.

43. On page 14 of the response applicant alleges that Takenaka fails to disclose the audio summaries being normalized to a common loudness level as claimed in Claim 16. Examiner respectfully disagrees. Takenaka discloses setting the volume level to maintain audibility over background noise, which constitutes a normalization (column 12, lines 11-49).

Conclusion

44. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Swerdlow whose telephone number is 571-272-7531. The examiner can normally be reached on Monday through Friday between 7:30 AM and 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh H. Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Daniel Swerdlow
Primary Examiner
Art Unit 2615

ds
3 April 2007